

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ECOVEST CAPITAL, INC., et al.

Defendants.

Case No. 1:18-cv-05774-AT

**JOINT MOTION TO STAY ALL PROCEEDINGS PENDING REVIEW OF
SETTLEMENT OFFERS**

The United States; EcoVest Capital, Inc., Alan Solon, Ralph Teal, and Robert McCullough (collectively, “the EcoVest Parties”); and Claud Clark III respectfully submit this joint request to stay the proceedings in the above-captioned case to provide the United States with time to process settlement offers and, in the event the settlement offers are accepted, to provide for performance of settlement terms.

On September 10, 2021, the Court entered a scheduling order in this case, requiring all discovery to be completed by October 19, 2021, and requiring dispositive motions to be filed by February 15, 2022. (ECF No. 328.) By separate order, the Court set a trial date in this case for Monday, April 17, 2023. (ECF No.

324.) Pursuant to that schedule, the parties have conducted significant discovery, filed various dispositive and non-dispositive motions, and trial in the matter remains scheduled for April 17, 2023.

The parties have also been discussing settlement of this matter, and on November 18, 2022, the EcoVest Parties and Clark submitted formal, separate written settlement offers to the United States. These offers, if accepted, will resolve all the remaining claims in this case. The parties respectfully request a stay of these proceedings for the following reasons.

All settlement authority to accept the offers on behalf of the United States resides in the first instance with the Attorney General and is redelegated by regulation. All settlements that do not fall within the authority delegated to the Assistant Attorney General of the Tax Division must be acted upon by the Associate Attorney General. *See* 28 C.F.R. § 0.161 (authorizing Deputy Attorney General to exercise settlement authority of the Attorney General) and Order No. 1627-92 (Oct. 19, 1992) (delegating Deputy Attorney General's settlement authority to the Associate Attorney General). Accordingly, the settlement offers will need to be reviewed and approved by a series of officials at the Department of Justice and such review may take several months.

With the trial in the matter set for April 17, 2023, the parties wish to focus

on settlement rather than incurring further litigation costs. Those costs include travel expenses, expert witness expenses, court reporter services, and resources needed to prepare the case for trial. Moreover, a stay will conserve judicial resources because the parties will not need to seek resolution of the various dispositive and non-dispositive motions now pending before the Court during the offer review process.

A district court has broad discretion to stay proceedings as incidental to its power to control its own docket. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). Particularly where, as here, a stay would promote judicial economy and efficiency, a stay is appropriate. The Eleventh Circuit acknowledges that there is a “strong judicial policy favoring settlement.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984); *see also In re Domestic Air Transp. Antitrust Litigation*, 148 F.R.D. 297, 305 (N.D. Ga. 1993) (noting “the overriding public policy in favor of settlements”). In sum, the possibility of a negotiated resolution of this case outweighs the harm (if any) in delaying resolution of the pending motions and the trial date, and the interests of judicial economy strongly favor such a resolution.

For these reasons, the parties respectfully request an indefinite stay of all deadlines in this case, and jointly propose the following procedures for the stay:

- a. All case deadlines are stayed as of the date of the Court’s stay order.

- b. The United States shall file a status report with the Court at 60-day intervals while the appropriate Justice Department officials are reviewing the settlement offers.
- c. If the United States accepts the settlement offers, the parties shall promptly file with the Court motions for entry of final judgment which, if granted, will fully resolve all claims and defenses in the case.
- d. If the United States rejects either or both of the settlement offers, the affected parties shall promptly file a motion requesting that the stay be lifted and shall submit a proposed revised schedule that provides sufficient time to resolve the various dispositive and non-dispositive motions and prepare the case for trial.

WHEREFORE, the United States, EcoVest Capital, Inc., Alan Solon, Ralph Teal, and Robert McCullough, and Claud Clark III respectfully and jointly request the Court enter an order staying the proceedings in the above-captioned case. A proposed order is attached.

Dated: November 18, 2022

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CERTIFICATE OF COMPLIANCE

I certify that this document was formatted in Times New Roman 14 pt., in compliance with Local Rule 5.1C.

s/ Richard G. Rose